



General Assembly

February Session, 2002

Bill No. 37

LCO No. 453

Referred to Committee on Finance, Revenue and Bonding

Introduced by:

SEN. DELUCA, 32nd Dist.

REP. WARD, 86th Dist.

AN ACT CONCERNING UNCLAIMED DEPOSITS ON BEVERAGE CONTAINERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-243 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective April 1, 2002*):

3 For purposes of sections 22a-243 to 22a-245, inclusive, and section 2
4 of this act:

5 (1) "Beverage" means beer or other malt beverages and mineral
6 waters, soda water and similar carbonated soft drinks in liquid form
7 and intended for human consumption;

8 (2) "Beverage container" means the individual, separate, sealed
9 glass, metal or plastic bottle, can, jar or carton containing a beverage;

10 (3) "Consumer" means every person who purchases a beverage in a
11 beverage container for use or consumption;

12 (4) "Dealer" means every person who engages in the sale of
13 beverages in beverage containers to a consumer;

14 (5) "Distributor" means every person who engages in the sale of
15 beverages in beverage containers to a dealer in this state including any
16 manufacturer who engages in such sale and includes a dealer who
17 engages in the sale of beverages in beverage containers on which no
18 deposit has been collected prior to retail sale;

19 (6) "Manufacturer" means every person bottling, canning or
20 otherwise filling beverage containers for sale to distributors or dealers;

21 (7) "Place of business of a dealer" means the location at which a
22 dealer sells or offers for sale beverages in beverage containers to
23 consumers;

24 (8) "Redemption center" means any facility established to redeem
25 empty beverage containers from consumers or to collect and sort
26 empty beverage containers from dealers and to prepare such
27 containers for redemption by the appropriate distributors;

28 (9) "Use or consumption" includes the exercise of any right or power
29 over a beverage incident to the ownership thereof, other than the sale
30 or the keeping or retention of a beverage for the purposes of sale;

31 (10) "Nonrefillable beverage container" means a beverage container
32 which is not designed to be refilled and reused in its original shape;

33 (11) "Deposit initiator" means the first distributor who is not a
34 manufacturer to sell a beverage container in this state or a
35 manufacturer who sells a beverage container to a person who sells a
36 beverage container.

37 Sec. 2. (NEW) (*Effective April 1, 2002*) (a) Each deposit initiator shall
38 open a special interest-bearing account with a national bank, state
39 bank and trust company or federally chartered savings bank or state or
40 federally chartered savings and loan association to the credit of the

41 deposit initiator. Each deposit initiator shall invest in such account an
42 amount equal to the refund value established pursuant to subsection
43 (a) of section 22a-244 of the general statutes for each beverage
44 container sold by such deposit initiator. Such investment shall be made
45 not more than three days after the date such beverage container was
46 sold. All interest, dividends and returns earned on the special account
47 shall be paid directly into such account. Such moneys shall be kept
48 separate and apart from all other moneys in the possession of the
49 deposit initiator.

50 (b) Any reimbursement of the refund value for a redeemed
51 beverage container shall be paid from the deposit initiator's special
52 account in the manner prescribed in the accounting system established
53 by the Commissioner of Environmental Protection pursuant to
54 regulations adopted pursuant to subsection (e) of section 22a-245 of the
55 general statutes, as amended by this act.

56 (c) Each deposit initiator shall submit a report on April 1, 2002, for
57 the immediately preceding calendar quarter and one month after the
58 close of each calendar quarter thereafter, to the commissioner, on a
59 form prescribed by the commissioner and with such information the
60 commissioner deems necessary, including, but not limited to: (1) The
61 balance in the special account at the beginning of the quarter for which
62 the report is prepared; (2) a list of all deposits credited to such account
63 during such quarter, including all refund values paid to the deposit
64 initiator and all interest, dividends or returns received on the account;
65 (3) a list of all withdrawals from such account during such quarter, all
66 service charges and overdraft charges on the account and all payments
67 made pursuant to subsection (d) of this section; and (4) the balance in
68 the account at the close of the quarter for which the report is prepared.

69 (d) The balance outstanding in the special account shall be paid by
70 the deposit initiator one month after the close of the calendar quarter
71 to the commissioner for deposit in the General Fund. If the amount of
72 the required payment pursuant to this subsection is not paid within

73 seven days after it is due, a penalty of ten per cent of the amount due
74 shall be added to the amount due and an additional five per cent
75 penalty shall be added for each day thereafter that such payment is not
76 submitted. Such penalties shall not be paid from funds maintained in
77 the special account.

78 (e) If moneys deposited in the special account are insufficient to pay
79 for withdrawals authorized pursuant to subsection (b) of this section,
80 such deficiency shall be added, with interest, to the succeeding
81 payment due pursuant to subsection (d) of this section.

82 (f) The Treasurer may, independently or upon request of the
83 commissioner, examine the accounts and records of any deposit
84 initiator referring to accounts and records maintained under sections
85 22a-243 to 22a-245, inclusive, of the general statutes, as amended by
86 this act, including receipts, disbursements and such other items as the
87 Treasurer deems appropriate. The Treasurer may assess a surcharge in
88 the amount of ten per cent per annum for any audit adjustments to
89 accounts or records maintained under said sections 22a-243 to 22a-245,
90 inclusive, and this section, during any fiscal year, and ten per cent per
91 annum, together with interest, for any underpayment of the payment
92 established by subsection (d) of this section. Such penalties shall not be
93 paid from funds maintained in the special account.

94 (g) The Attorney General may, independently or upon complaint of
95 the commissioner, institute any appropriate action or proceeding to
96 enforce any provision of this section or any regulation adopted
97 pursuant to section 22a-245 of the general statutes to implement the
98 provisions of this section.

99 Sec. 3. Subsection (e) of section 22a-245 of the general statutes is
100 repealed and the following is substituted in lieu thereof (*Effective April*
101 *1, 2002*):

102 (e) The Commissioner of Environmental Protection shall adopt
103 regulations, in accordance with the provisions of chapter 54, to

104 implement the provisions of sections 22a-243 to 22a-245, inclusive, as
105 amended by this act, and section 2 of this act. Such regulations shall
106 include, but not be limited to, provisions for the redemption of
107 beverage containers dispensed through automatic vending machines,
108 the use of vending machines which dispense cash to consumers for
109 redemption of beverage containers, scheduling for redemption by
110 dealers and distributors, [and for] exemptions or modifications to the
111 labeling requirement of section 22a-244, and a prescribed accounting
112 system for the reimbursement of the refund value for a redeemed
113 beverage container.

114 Sec. 4. Section 22a-246 of the general statutes is repealed and the
115 following is substituted in lieu thereof (*Effective April 1, 2002*):

116 Any person who violates any provision of section 22a-244 or 22a-
117 245, as amended by this act, or section 2 of this act shall be fined not
118 less than fifty dollars nor more than one hundred dollars, and for a
119 second offense shall be fined not less than one hundred dollars nor
120 more than two hundred dollars and for a third offense shall be fined
121 not less than two hundred fifty dollars nor more than five hundred
122 dollars.

123 Sec. 5. Subsection (a) of section 22a-6b of the general statutes is
124 repealed and the following is substituted in lieu thereof (*Effective April*
125 *1, 2002*):

126 (a) The Commissioner of Environmental Protection shall adopt
127 regulations, in accordance with the provisions of chapter 54, to
128 establish a schedule setting forth the amounts, or the ranges of
129 amounts, or a method for calculating the amount of the civil penalties
130 which may become due under this section. Such schedule or method
131 may be amended from time to time in the same manner as for
132 adoption provided any such regulations which become effective after
133 July 1, 1993, shall only apply to violations which occur after said date.
134 The civil penalties established for each violation shall be of such
135 amount as to insure immediate and continued compliance with

136 applicable laws, regulations, orders and permits. Such civil penalties
137 shall not exceed the following amounts:

138 (1) For failure to file any registration, other than a registration for a
139 general permit, for failure to file any plan, report or record, or any
140 application for a permit, for failure to obtain any certification, for
141 failure to display any registration, permit or order, or file any other
142 information required pursuant to any provision of section 14-100b or
143 14-164c, as amended, subdivision (3) of subsection (b) of section 15-
144 121, section 15-171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or
145 22a-42a, 22a-45a, chapter 441, sections 22a-134 to 22a-134d, inclusive,
146 as amended, subsection (b) of section 22a-134p, section 22a-171, 22a-
147 174, as amended, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184,
148 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-231, section 2 of this
149 act, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p,
150 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405,
151 inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-
152 447, 22a-449, 22a-450, 22a-451, as amended, 22a-454, 22a-458, 22a-461,
153 22a-462 or 22a-471, or any regulation, order or permit adopted or
154 issued thereunder by the commissioner, and for other violations of
155 similar character as set forth in such schedule or schedules, no more
156 than one thousand dollars for said violation and in addition no more
157 than one hundred dollars for each day during which such violation
158 continues;

159 (2) For deposit, placement, removal, disposal, discharge or emission
160 of any material or substance or electromagnetic radiation or the
161 causing of, engaging in or maintaining of any condition or activity in
162 violation of any provision of section 14-100b or 14-164c, as amended,
163 subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-
164 172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a,
165 chapter 441, sections 22a-134 to 22a-134d, inclusive, as amended,
166 section 22a-69 or 22a-74, subsection (b) of section 22a-134p, section 22a-
167 162, 22a-171, 22a-174, as amended, 22a-175, 22a-177, 22a-178, 22a-181,
168 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220,

169 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p, 22a-
170 358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive,
171 22a-411, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-
172 449, 22a-450, 22a-451, as amended, 22a-454, 22a-458, 22a-461, 22a-462
173 or 22a-471, or any regulation, order or permit adopted thereunder by
174 the commissioner, and for other violations of similar character as set
175 forth in such schedule or schedules, no more than twenty-five
176 thousand dollars for said violation for each day during which such
177 violation continues;

178 (3) For violation of the terms of any final order of the commissioner,
179 except final orders under subsection (d) of this section and emergency
180 orders and cease and desist orders as set forth in subdivision (4) of this
181 subsection, for violation of the terms of any permit issued by the
182 commissioner, and for other violations of similar character as set forth
183 in such schedule or schedules, no more than twenty-five thousand
184 dollars for said violation for each day during which such violation
185 continues;

186 (4) For violation of any emergency order or cease and desist order of
187 the commissioner, and for other violations of similar character as set
188 forth in such schedule or schedules, no more than twenty-five
189 thousand dollars for said violation for each day during which such
190 violation continues;

191 (5) For failure to make an immediate report required pursuant to
192 subdivision (3) of subsection (a) of section 22a-135, or a report required
193 by the department pursuant to subsection (b) of section 22a-135, no
194 more than twenty-five thousand dollars per violation per day;

195 (6) For violation of any provision of the state's hazardous waste
196 program, no more than twenty-five thousand dollars per violation per
197 day;

198 (7) For wilful violation of any condition imposed pursuant to
199 section 26-313 which leads to the destruction of, or harm to, any rare,

200 threatened or endangered species, no more than ten thousand dollars
201 per violation per day;

202 (8) For violation of any provision of sections 22a-608 to 22a-611,
203 inclusive, no more than the amount established by Section 325 of the
204 Emergency Planning and Community Right-To-Know Act of 1986 (42
205 USC 11001 et seq.) for a violation of Section 302, 304 or 311 to 313,
206 inclusive, of said act.

This act shall take effect as follows:	
Section 1	<i>April 1, 2002</i>
Sec. 2	<i>April 1, 2002</i>
Sec. 3	<i>April 1, 2002</i>
Sec. 4	<i>April 1, 2002</i>
Sec. 5	<i>April 1, 2002</i>

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]